

Criminal Jurisprudence, to whom was referred.

S. B. No. 19, A bill to be entitled "An Act to prohibit the manufacture, sale, barter, exchange, transportation, receipt, or possession of all alcoholic preparations of ginger."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

TURNER, Chairman.

Committee Room,

Austin, Texas, May 3, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 33, A bill to be entitled "An Act making it an offense to drive an automobile or any motor driven vehicle upon the streets of any incorporated city, town or village or upon the public highways while the driver is under the influence of intoxicating liquor; and declaring an emergency."

Have had same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that it be printed in the Journal only.

TURNER, Chairman.

Committee Room,

Austin, Texas, May 3, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 34, A bill to be entitled "An Act making it a felony for any person to carry on or about his person while violating the liquor laws any weapon or arm mentioned in Article 475 of the Penal Code; prescribing the penalty; and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that it be printed in the Journal only.

TURNER, Chairman.

Committee Room,

Austin, Texas, May 3, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 48, A bill to be entitled "An Act making it unlawful for any person, firm or corporation, to sell, or offer for sale for human consumption any milk which has been so treated by any artificial means or process, as to cause same to have the appearance of containing more cream or butter fat than it actually contains and providing appropriate penalty for the violation thereof and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that it be printed in the Journal only.

TURNER, Chairman.

Committee Room,

Austin, Texas, May 3, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 63, A bill to be entitled "An Act providing for the execution of convicts, condemned to death, by electrocution; prescribing the procedure in such cases; providing the means for accomplishing the purposes of this Act and making an appropriation therefor; prescribing fees to be paid; repealing certain statutes, with saving clauses, and all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that it be printed in the Journal only.

TURNER, Chairman.

#### FIFTEENTH DAY.

Senate Chamber,

Austin, Texas.

Saturday, May 5, 1923.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, and the following Senators answered to their names:

Bailey.	McMillin.
Baugh.	Murphy.
Bledsoe.	Pollard.
Bowers.	Rice.
Burkett.	Strong.
Cousins.	Stuart.
Doyle.	Turrer.
Fairchild.	Wood.
Holbrook.	Woods.
Lewis.	

Absent.

Clark.	Ridgeway.
Darwin.	Thomas.
Floyd.	Watts.
Parr.	Wirtz.

Absent—Excused.

Davis.	Witt.
Rogers.	

The Secretary announced that there was no quorum present.

Senator Wood moved that the Sergeant-at-Arms be instructed to bring in all absent Senators who are in the city.

The Sergeant-at-Arms was furnished with a list of the following Senators who were absent without leave:

Senators Clark, Darwin, Floyd, Parr, Ridgeway, Thomas, Watts and Wirtz.

Excused: Senators Davis, Rogers and Witt.

Senator Bledsoe then made the following motion.

For the purpose of securing and maintaining a quorum, I move a call of the Senate; that the Sergeant-at-Arms be instructed to secure and take with him all necessary help in order to locate the Senators who are in the city, and to bring them into the Senate Chamber; that the President of the Senate be requested to revoke the excuses of all absentees; to notify all of them who are absent from the city to be in attendance on the session of the Senate on Monday morning next, and to remain throughout the remainder of the session, unless excused on account of sickness, and that excuses be not accepted throughout the remainder of the session for any other reason than sickness.

The motion was unanimously adopted.

The arrival of Senator Darwin completed a quorum, and it was so announced.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Strong.

See Appendix for committee reports, petitions and memorials.

#### Bills on First Reading.

The following bills, introduced today, were each read first time and referred to appropriate committees as follows:

By Senator Fairchild:

S. B. No. 88, A bill to be entitled "An Act to repeal Section 23, Chapter 47, General Laws, passed at the Regular Session of the Thirty-second Legislature, requiring manufacturers of food and drugs doing business in the State of Texas, and all persons bringing into and offering for sale within this State any article of food or drug, to register their firm names and addresses with the Dairy and Food Commissioner and to pay a fee of one dollar for such registration; and to amend Section 4, of said Chapter 47, so as to include the word 'saccharin'; and declaring an emergency."

To the Committee on Finance.

By Senators Fairchild, McMillin, Rice, Bledsoe, Darwin, Rogers and Burkett:

S. B. No. 89, A bill to be entitled "An Act to create and provide for a Department of Insurance for the State of Texas, separate and distinct from the Department of Banking of this State; vesting therein and giving to it jurisdiction of all matters, things, powers and functions of the Department of Insurance and Banking, except such as may have been divested therefrom and vested in the Department of Banking; and giving to it all the powers, jurisdiction, things and functions now vested in the State Insurance Commission; providing that the present two Commissioners shall continue to hold their respective positions until their successors are appointed and qualified as now provided by law; and providing for the appointment, term of office, name, compensation and

prescribing the qualifications, powers and duties of the Commissioner of Insurance. The purposes of this Act being to consolidate the State Insurance Commission with the Department herein created, without changing the personnel, powers, jurisdiction and functions, duties and rights of said Commission, other than is herein expressly provided. To require of the Commissioner of Insurance and the two Commissioners an oath of office and a bond for the faithful discharge of their duties. The Department hereby created shall be known as the Department of Insurance, and shall be composed of three members. The Commissioner of Insurance herein provided for shall be the chairman and the presiding officer of said Commission. Each of the other two members of said Commission shall be designated and known as Commissioners; and giving to the Commission all powers to name and appoint all necessary actuaries, stenographers, clerks and other employees, and to discharge same when necessary, requisite to the efficient carrying out of the provisions of this Act; providing that the salaries of the Commission and of all employees in said Department and all the expenses of same, shall be paid out of the general revenues of this State, as is now provided by law; providing that the members of the Commission and the employees of said Department shall be placed and held under a rule of civil service as near as possible; providing that no Commissioner or employee shall be interested in any insurance company except as an insured; providing that if any section of this Act is declared unconstitutional, it shall not invalidate the remainder thereof; declaring the purposes of this Act; and declaring an emergency."

To the Committee on Insurance and Banking.

By Senator Baugh:

S. B. No. 90, A bill to be entitled "An Act making available to the Board of Control any moneys which represent any unexpended balance of any appropriation made for support and maintenance of the American Legion Memorial Sanatorium, so that such moneys may be used to pay any necessary expense incident to the carrying out of the lease of said sanatorium to the Federal Gov-

ernment, and transferring patients to the institution, and taking care of other patients unable to be transferred, and declaring an emergency."

To the Committee on Finance.

By Senator Lewis:

S. B. No. 91, A bill to be entitled "An Act creating the Texas Historical Board; defining its powers and duties; fixing the tenure of office of its members; and declaring an emergency."

To the Committee on State Institutions and Departments.

By Senator Wood:

S. B. No. 92, A bill to be entitled "An Act making appropriations to pay miscellaneous claims against the State and authorizing payment of said miscellaneous items on the taking effect of this Act; and declaring an emergency."

To the Committee on Finance.

By Senator Bowers:

S. B. No. 93, A bill to be entitled "An Act to authorize State of Texas to co-operate with other cotton producing states in the work of the Cotton States Commission; providing for the appointment of representation on said Commission, and for other purposes."

To the Committee on State Affairs.

#### S. R. No. 26.

By Senator Strong:

Whereas, Miss Mary E. Latimer of the Baylor University is an accomplished reader and declaimer from the Boston School of Expression, and is now in the city, the guest of Lieutenant Governor and Mrs. T. W. Davidson; therefore, be it

Resolved, That she be extended the courtesy of the floor, and invited to give a reading for the members of the Senate.

The resolution was read and adopted.

The Chair appointed Senators Strong, Fairchild and Burkett as a committee to escort Miss Latimer to the President's stand, and she entertained the Senate with several readings.

#### H. B. No. 15—Ordered Printed in the Journal.

On motion of Senator Wood, H. B. No. 15, reported adversely with fa-

In Memory and Honor  
of  
Hon. W. A. Johnson

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SIMPLE RESOLUTION NO. 27.

By Senator Bledsoe:

Whereas, The Senate of Texas has just learned of the untimely death of former Lieutenant Governor W. A. Johnson at his home at Memphis, Hall County, Texas, on this date; and

Whereas, He has heretofore served as a member of the Senate of Texas from the Twenty-ninth Senatorial District, and thereafter presided over the deliberations of said body and served the State of Texas as its Lieutenant Governor; therefore, be it

Resolved, By the Senate of the State of Texas, that it is with regret they learn of his untimely death, and hereby express to his family their sincere sympathy in the great loss that has come to them;

That in the death of Governor Johnson, the State of Texas has lost a valuable citizen, a patriot and statesman, who gave his best efforts to the service of his State and country;

That the work done by him, both as a member of the Senate and as Lieutenant Governor of Texas, endears him to the heart of the people of this State;

That these resolutions be published in the Journal of the Senate, a page thereof dedicated to the memory of this distinguished citizen and statesman; and that a copy of these resolutions be furnished to the family of Governor Johnson by the Secretary of the Senate and that when the Senate adjourns on this date that it do so out of respect to his memory.

BLEDSON.  
McMILLIN.  
WOOD.  
DARWIN.

The resolution was read and, after eulogies on the deceased were delivered by Senators Bledsoe, McMillin, Woods, Cousins and Holbrook, the resolution was unanimously adopted by a rising vote.

avorable minority report, was ordered printed in the Journal.

Senator Darwin moved to reconsider the vote by which the bill was ordered printed, and that motion be spread on the Journal.

**S. B. No. 80—Ordered Printed in the Journal.**

On motion of Senator Wood, S. B. No. 80, reported adversely with favorable minority report, was ordered printed in the Journal.

**S. R. No. 28.**

By Senator Stuart:

Whereas, The Senate ordered a floral offering for the funeral of Hon. Lee J. Rountree a member of the House, and appointed a committee of Senate members composed of Senators Doyle, Lewis and Bowers to accompany his remains to Bryan, Texas; and

Whereas, Said flowers were purchased, and said Senate committee did attend said funeral at Bryan; therefore, be it

Resolved, That the expense of said flowers and railroad fare and other expenses of said committee be paid out of the Contingent Expense Fund of the Senate upon presentation of proper statements of said expenses.

The resolution was read and adopted.

**Relative to Taxes and Appropriations.**

Senator Wood made the following motion:

Whereas, The Kiwanis Club of San Angelo, Texas, has this day wired Lieutenant Governor T. W. Davidson its request that the Senate pass a bill to provide at least \$15.00 per scholastic per year for the next two years, and also request the most liberal aid to the rural schools of Texas; and

Whereas, It is necessary to raise at least twelve million dollars of additional revenue for the next two years in order to comply with this request; and

Whereas, Each and every tax measure that has been proposed in the Legislature providing for additional revenue has been opposed most

strenuously by each and every person who is affected by such legislation; and

Whereas, It is the desire of the Senate to ascertain from the Kiwanis Club of San Angelo its recommendations as to ways to raise this additional revenue, and what it thinks particularly of the income tax; and, therefore, be it

Resolved, That the Secretary of the Senate be instructed to wire the Kiwanis Club of San Angelo and request them to suggest what to tax in order to raise this money and what the opinion of the members is with reference to the income tax, and who, if anyone, suggested that they send this telegram.

The motion was adopted.

**S. J. R. No. 3.**

By Senator Murphy:

Whereas, April 21st, 1936, is the centennial of the Battle of San Jacinto, which won for Texas its independence from the Government of Mexico; and

Whereas, San Jacinto Battlefield is located in Harris County within twenty miles of its county seat, the city of Houston; and

Whereas, The city of Houston was the capital of the Republic of Texas after the Battle of San Jacinto and the granting of independence; and

Whereas, It is fit, proper and patriotic that the centennial of the Battle of San Jacinto and of the independence of Texas be observed in a nation-wide celebration in order that all citizens of the State of Texas, of the United States and of the civilized world may celebrate that occasion; therefore, be it

Resolved, By the Senate and the House of Representatives of the Thirty-eighth Legislature, that the proper place for the celebration of said centennial should, and is hereby declared to be in the city of Houston, Harris County, Texas, as the place for holding said celebration, and we recommend to the people of the State of Texas that the celebration of the centennial of the Battle of San Jacinto and of the independence of Texas be celebrated on that occasion in the city of Houston, in the manner befitting such an event

and that all the civilized world be invited to join in the celebration.

The resolution was read and adopted.

#### H. B. No. 10 on Second Reading.

The Chair laid before the Senate as special order, on its second reading,

H. B. No. 10, A bill to be entitled "An Act to tax property passing by will or by descent or by grant or gift taking effect on the death of the grantor or donor; providing for the collection of such tax, and repealing Articles 7487, 7488, 7489, 7490, 7491, 7492, 7493, 7494, 7495, 7496, 7497, 7498, 7499, 7500, 7501 and 7502, Revised Civil Statutes of Texas, 1911; also repealing Chapter 21 of the Acts of the First Called Session of the Thirtieth Legislature, Chapter 166 of the Acts of the Regular Session of the Thirty-fifth Legislature, and Chapter 164 of the Acts of the Regular Session of the Thirty-sixth Legislature, and repealing all laws in conflict herewith, and declaring an emergency."

The bill was read second time.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 2, of the printed bill by striking out all of Section 3 and inserting in lieu thereof the following:

"Sec. 3. If passing to or for the use of husband or wife, or any direct lineal descendant or ascendant of the decedent, or to a legally adopted child or children, or to the husband of a daughter or the wife of a son, the tax shall be one per cent on any value in excess of twenty-five thousand, and not exceeding fifty thousand dollars; two per cent on any value in excess of fifty thousand dollars, and not exceeding one hundred thousand dollars; three per cent on any value in excess of one hundred thousand dollars, and not exceeding two hundred thousand dollars; four per cent on any value in excess of two hundred thousand dollars and not exceeding five hundred thousand dollars; five per cent on any value in excess of five hundred thousand dollars, and not exceeding one million dollars; and six per cent on any value in excess of one million dollars."

The amendment was adopted.

(Senator Watts in the Chair.)

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, pages 2 and 3, of the printed bill, by striking out all of Section 4 and inserting in lieu thereof the following:

"Sec. 4. If passing to a religious, educational or charitable organization located within this State and the bequest is to be used within this State, or to any city, town or county within this State, or to the State of Texas, or to the United States to be used in this State, the tax shall be one per cent on any value in excess of twenty-five thousand dollars, and not exceeding fifty thousand dollars; two per cent on any value in excess of fifty thousand dollars and not exceeding one hundred thousand dollars; three per cent on any value in excess of one hundred thousand dollars, and not exceeding two hundred thousand dollars; four per cent on any value in excess of two hundred thousand dollars, and not exceeding five hundred thousand dollars; five per cent on any value in excess of five hundred thousand dollars and not exceeding one million dollars; and six per cent on any value in excess of one million dollars."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 3, of the printed bill, by striking out all of Section 5 and inserting in lieu thereof the following:

"Sec. 5. If passing to or for the use of a brother or sister, or a direct lineal descendant of a brother or sister of the decedent, the tax shall be two per cent on any value in excess of two thousand dollars and not exceeding ten thousand dollars; three per cent on any value in excess of ten thousand dollars, and not exceeding twenty-five thousand dollars; four per cent on any value in excess of twenty-five thousand dollars, and not exceeding fifty thousand dollars; five per cent on any value in excess of fifty thousand dollars, and not exceeding one hundred thousand dollars; six per cent on any value in excess of one hundred thousand dollars, and not exceeding two hundred fifty thousand dollars; seven per cent on any value in excess of two hundred and fifty thousand dollars, and not exceeding five hundred thou-

sand dollars; eight per cent on any value in excess of five hundred thousand dollars, and not exceeding seven hundred and fifty thousand dollars; nine per cent on any value in excess of seven hundred and fifty thousand dollars, and not exceeding one million dollars; and ten per cent on any value in excess of one million dollars."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 4, of the printed bill, by striking out Section 6 and inserting in lieu thereof the following:

"Sec. 6. If passing to or for the use of an uncle or aunt, or a direct lineal descendant of an uncle or aunt of the decedent, the tax shall be four per cent on any value in excess of one thousand dollars, and not exceeding ten thousand dollars; five per cent on any value in excess of ten thousand dollars, and not exceeding twenty-five thousand dollars; six per cent on any value in excess of twenty-five thousand dollars, and not exceeding fifty thousand dollars; seven per cent on any value in excess of fifty thousand dollars, and not exceeding one hundred thousand dollars; ten per cent on any value in excess of one hundred thousand dollars, and not exceeding five hundred thousand dollars; twelve per cent on any value in excess of five hundred thousand dollars, and not exceeding one million dollars; and fifteen per cent on any value in excess of one million dollars."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, pages 4 and 5, of the printed bill, by striking out Section 7 and inserting in lieu thereof the following:

"Sec. 7. If passing to any other person within or without this State, not mentioned in the preceding sections of this bill, or to any religious, educational or charitable organization located without the State of Texas, or to any religious, educational or charitable organization located in the State of Texas, or to the United States and the bequest is to be used without this State, or to any other corporation or association not included in any of the classes mentioned in the preceding portions of this Act, the tax shall be five per

cent on any value in excess of five hundred dollars, and not exceeding ten thousand dollars; six per cent on any value in excess of ten thousand dollars, and not exceeding twenty-five thousand dollars; eight per cent on any value in excess of twenty-five thousand dollars, and not exceeding fifty thousand dollars; ten per cent on any value in excess of fifty thousand dollars, and not exceeding one hundred thousand dollars; twelve per cent on any value in excess of one hundred thousand, and not exceeding five hundred thousand dollars; fifteen per cent on any value in excess of five hundred thousand dollars, and not exceeding one million dollars; and twenty per cent on any value in excess of one million dollars.

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 6, by inserting after the line 31 of the printed bill the following sub-division:

"(e) The name and address of all persons entitled to such property and the value of such property to each beneficiary."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 5, of the printed bill by striking out all of Section 10 and designating Section 9 ½ as Section 10.

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 7, by striking out Section 14 of the printed bill and inserting in lieu thereof the following:

"Sec. 14. It shall be the duty of the county attorney of each county of this State to carefully investigate and keep informed concerning estates subject to the payment of taxes and to see that proper reports are filed as required by Section 11 of this chapter, and if an administrator, executor or trustee fails or refuses to file said reports as provided for in Section 11 of this Act, and within the time specified he shall be fined in any sum not less than one hundred dollars and not more than one thousand dollars, and it is hereby made the duty of the county attorney and of the district attorney where there is no county attorney, to

promptly file complaints or information in the proper court against such administrator, executor or trustee for not making the report herein required."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, pages 7 and 8, by striking out all of Section 15 and insert in lieu thereof the following:

"Sec. 15. The only deductions permissible under this Act are debts due by the estate, funeral expenses, expenses incident to last illness of deceased and taxes due to the Federal Government. A full statement of the facts authorizing deductions must be made in duplicate under oath by the executor, administrator or trustee and one copy filed with the county clerk and the other with the Comptroller before any deductions will be allowed."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 8, by adding thereto two sections, Section 16a and 16b, immediately following line 12, of the printed bill, as follows:

"Sec. 16a. Immediately after the filing of reports as required by Section 11 of this Act, or as soon thereafter as practical, the county judge shall calculate and determine the amount of taxes due and shall furnish statement of the same to the Comptroller for verification. If the Comptroller finds the tax to be correctly calculated he shall so advise the county judge, whereupon it shall immediately become the duty of the county judge to certify such amount to the collector of taxes, to the executor, administrator or trustee and to the person to whom, or for whose use, the property passes, and said tax shall be a lien upon such property from the death of the decedent until paid.

"Sec. 6b. The collector of taxes of each county shall, on or before the fifteenth day of each month, pay to the State Treasurer all taxes received by him under this law before the first day of that month, deducting therefrom all lawful disbursements made by him under this Act, and also his compensation at the

rate of one per cent of all taxes collected under this Act."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 8, by striking out all of Section 17 and inserting in lieu thereof the following:

"Sec. 17. No final account of any executor, administrator, or trustee shall be allowed by the county judge unless such account shows and said judge finds that all taxes imposed under this law or any property or interest passing through his hands as such have been paid; neither shall the county judge close any estate or permit the delivery of any property to a legatee or heir without first ascertaining whether or not a tax is due under this Act and if no tax is due such fact must be shown by an instrument in writing filed with the final papers closing said estate."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 9, of the printed bill, by striking out all of Section 18, after the word "foreclosed," in line 6.

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 10, of the printed bill, by striking out Section 23, and renumbering the following sections accordingly.

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 10, immediately following Section 21, by adding thereto Sections 21a and 21b, as follows:

"Sec. 21a. The Comptroller shall prescribe and furnish all forms necessary in making the reports and collecting the tax provided for by this Act.

"Sec. 21b. All taxes received under this Act by any executor, administrator or trustee, shall be paid by him to the collector of taxes of the county whose county court has jurisdiction of the estate of the decedent. Upon such payment, the collector shall make duplicate receipts thereof, he shall deliver one to the party making payment, the other he shall send to the Comptroller of Public Accounts, who shall charge the collector with the amount thereof, and



shall countersign and affix his seal of office to such receipt and transmit same to the party making payment."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 9, of the printed bill, Section 19, by striking out beginning in line 28, following the word "therein," the following:

"which payment shall be made by the Comptroller upon warrants on the State Treasurer out of any moneys in his hands received under this chapter."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 10, of the printed bill, by adding thereto, following Section 20, a new section, Section 20a, as follows:

"Sec. 20a. For the services performed under the provisions of this Act, the county attorney and the county judge shall each be allowed two per cent of the taxes collected not to exceed thirty dollars in any one estate. If suit be brought as required by Section 18 of this Act, the county or district attorney prosecuting same shall receive as compensation therefor five per cent on the amount of the taxes payable hereunder not to exceed in any one case the sum of one hundred dollars, which fee shall be added and collected from said estate in addition to the taxes and penalties herein provided for and such compensation shall be in addition to all other fees and compensation provided by this Act; provided that the aggregate of fees received under this chapter shall not exceed in any one year the sum of two thousand dollars and any fees earned in addition to said sum shall be considered a portion of the tax and penalties collected and be distributed in the same manner."

The amendment was adopted.

Senator Stuart offered the following amendment to the bill:

Amend H. B. No. 10, page 2, by adding between the words "inhabitants" and "which," in line 8, the following:

"Regardless of whether property is located within or without the State."

The amendment was adopted.

Senator Woods offered the following amendment to the bill:

Amend Amendment No. 1 to H. B. No. 10 by striking out the following words:

"Husband or wife or," line 16, page 2.

"descendant or," line 17, page 2.

"or to a legally adopted child or children," lines 17 and 18, page 2.

Senator Stuart moved to table the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

Yeas—9.

Baugh.	Murphy.
Bledsoe.	Stuart.
Bowers.	Turner.
Darwin.	Wood.
Lewis.	

Nays—11.

Bailey.	McMillin.
Burkett.	Rice.
Cousins.	Strong.
Doyle.	Watts.
Fairchild.	Woods.
Holbrook.	

Absent.

Clark.	Ridgeway.
Floyd.	Thomas.
Parr.	Wirtz.
Pollard.	

Absent—Excused.

Davis.	Witt.
Rogers.	

Senator Burkett offered the following amendment to the amendment: Amend the amendment by striking out the word "children."

The amendment to the amendment was adopted.

Question then recurred on the amendment as amended.

Yeas and nays were demanded, and the amendment was lost by the following vote:

Yeas—7.

Burkett.	Strong.
Doyle.	Thomas.
McMillin.	Woods.
Rice.	

Nays—14.

Bailey.	Darwin.
Baugh.	Fairchild.
Bledsoe.	Holbrook.
Bowers.	Lewis.
Cousins.	Murphy.

Stuart.  
Turner.

Watts.  
Wood.

Absent.

Clark.  
Floyd.  
Parr.  
Pollard.

Ridgeway.  
Rogers.  
Wirtz.

Absent—Excused.

Davis.

Witt.

#### Message from the House.

Hall of the House of Representatives,  
Austin, Texas, May 5, 1923.

Hon. T. W. Davidson, President of  
the Senate.

Sir: I am directed by the House  
to inform the Senate that the House  
has passed the following:

H. C. R. No. 9, Appointing an in-  
vestigating committee to consider and  
investigate certain operations of the  
Standard Oil Company in Texas.

S. C. R. No. 13, Petitioning Con-  
gress to seat Hon. E. W. Cole as  
Texas Congressman-at-Large.

S. C. R. No. 16, Authorizing the  
Board of Control to issue a permit to  
certain persons for the purpose of  
operating cold drink stands at the  
Capitol and Land Office Buildings.

H. B. No. 69, A bill to be entitled  
"An Act extending oil and gas per-  
mits on lands which are now or have  
been in the possession or under the  
control of the Federal receiver ap-  
pointed by the Supreme Court of the  
United States for such periods of  
time, respectively, as such lands have  
been or may be in such receiver's  
possession or under his control, and  
declaring an emergency."

Respectfully submitted,

C. L. PHINNEY,

Chief Clerk, House of Representatives.

#### Bills Read and Referred.

The Chair (Senator Watts) had re-  
ferred, after their captions had been  
read, the following:

H. C. R. No. 9, to the Committee  
on State Affairs.

H. B. No. 69, to the Committee on  
State Affairs.

#### Message from the Governor.

Mrs. Tyndall, Secretary to the  
Governor, appeared at the bar of the

Senate with the following executive  
message, which was read as follows:

Governor's Office,

Austin, Texas, May 5, 1923.

To the Members of the Thirty-eighth  
Legislature, Second Called Session:

Gentlemen: It was not my inten-  
tion to submit any other matters to  
you for consideration, but I find I  
have overlooked sending up in my  
last message, two or three items that  
I had promised to submit.

I will therefore submit to you leg-  
islation in regard to the powers and  
duties of the State Board of Educa-  
tion, with reference to the purchase  
of bonds for the account of the State  
Permanent School Fund, which will  
require an amendment to Article  
2740 of the Revised Civil Statutes;  
an Act prescribing the qualifications  
of the persons holding the office of  
county superintendent of public in-  
struction, and for the filling of vacan-  
cies in said office; amending the laws  
harmonizing and reconciling discrim-  
inations of non-resident guardians as  
to bond required and the validity of  
appointments of non-resident guar-  
dians; limiting and regulating per-  
sons to whom the railroads of the  
State are privileged to grant free  
transportation.

Respectfully submitted,

PAT M. NEFF,

Governor.

#### Adjournment.

Senator Fairchild moved that the  
Senate recess until 7:30 p. m. today.

On motion of Senator Baugh, the  
Senate at 6:30 p. m. adjourned until  
9:30 o'clock a. m. Monday.

#### APPENDIX.

##### Petitions and Memorials.

The Chair (Lieutenant Governor  
T. W. Davidson), offered and had  
read a telegram from ex-Senator R.  
M. Dudley, now Mayor of El Paso,  
urging the enactment of a law penal-  
izing vendors of narcotics for carry-  
ing fire arms.

Also a telegram from Kiwanis  
Club of San Angelo, urging fifteen  
dollars per annum per capita for  
schools.

Senators Burkett and Strong offered and had read telegrams from Fort Worth, Amarillo and Carthage creameries, protesting against the passage of S. B. No. 48, the so-called Pure Milk Bill.

Senator Burkett also offered a telegram from citizens of Strawn, and one from secretary of school board at Ranger, both urging a measure fixing the apportionment of fifteen dollars per capita for schools.

#### Committee Reports.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 30 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 38 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 45 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 52 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill

No. 55 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 56 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 57 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 67 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 68 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 79, A bill to be entitled "An Act making an appropriation to be used in the erection of a monument in the city of Houston in memory of Sam Houston, who headed the military forces in Texas' struggle for freedom and who was President of the Republic of Texas; said appropriation to be used together with other funds for said purpose from private donations; providing the means, agencies and expenditure of said fund and erection of the monument; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass but be not printed in bill form, but that it be printed in the Journal.

WOOD, Chairman.

(Majority Report.)

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, a majority of your Committee on Finance, to whom was referred

S. B. No. 80, A bill to be entitled "An Act to provide additional compensation for the members of the Railroad Commission of Texas, payable one-half out of the Regulating Pipe Line Fund, created by Section 11, Chapter 30, Acts of the Regular Session of the Thirty-fifth Legislature, approved February 20, 1917, and one-half out of the 'Gas Utilities Fund,' created by Section 11, Chapter 14, Acts of the Third Called Session of the Thirty-sixth Legislature, approved June 12, 1920, said sums to be paid in monthly installments by warrants drawn by the State Comptroller on the State Treasurer, as provided in said Acts for other salaries and expenses, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

WOOD, Chairman.

(Minority Report.)

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: I, a minority of your Committee on Finance, to whom was referred S. B. No. 80, have had same under consideration, and beg leave report it back to the Senate with the recommendation that it do pass and be not printed in bill form, but be printed in the Journal.

WOOD.

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 88, A bill to be entitled "An Act to repeal Section 23, Chapter 27, General Laws, passed at the Regular Session of the Thirty-second Legislature, requiring manufacturers of food and drugs doing business in the State of Texas, and all persons bringing into and offering for sale within this State any article of food or drug to register their firm names and addresses with the Dairy and Food Commissioner and to pay a fee of one dollar for such registration; and to amend Section 4 of said Chapter 47, so as to include the word 'saccharin'; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

WOOD, Chairman.

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 90; A bill to be entitled "An Act making available to the Board of Control any moneys which represent any unexpended balance of any appropriation made for support and maintenance of the American Legion Memorial Sanatorium, so that such moneys may be used to pay any necessary expense incident to the carrying out of the lease of said sanatorium to the Federal Government, and transferring patients to the institution and taking care of other patients unable to be transferred, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

WOOD, Chairman.

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 92, A bill to be entitled "An Act making appropriations to pay miscellaneous claims against the State, and authorizing payment of said miscellaneous items on the taking effect of this Act, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass but be not printed in bill form, but be printed in the Journal.

WOOD, Chairman.

Committee Room,

Austin, Texas, May 5, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Insurance and Banking, to whom was referred

S. B. No. 89, A bill to be entitled "An Act to create and provide for a Department of Insurance for the State of Texas, separate and distinct from the Department of Banking of this State; vesting therein and giving to it jurisdiction of all matters, things, powers and functions of the Department of Insurance and Banking, except such as may have been divested therefrom and vested in the Department of Banking by law; and giving to it all the powers, jurisdiction things and functions now vested in the State Insurance Commission. Providing that the present two Commissioners shall continue to hold their respective positions until their successors are appointed and qualified as now provided by law and providing for the appointment, term of office, name, compensation and prescribing the qualifications, powers, and duties of the Commissioner of Insurance. The purposes of this Act being to consolidate the State Insurance Commission with the Department herein created, without changing the personnel, powers, jurisdiction and functions, duties and rights of said commission, other than is herein expressly provided. To require of the Commissioner of Insurance and the two commissioners an oath of office and a bond for the faithful discharge of their duties. The department hereby created shall be known as the Department of Insurance, and shall be composed of three members. The Commissioner of Insurance herein provided for shall be the chairman and presiding officer of said commission. Each of the other two members of said commission shall be designated and known as commissioners; and giving to the commission all powers to name and appoint all necessary actuaries, stenographers, clerks and other employees, and to

discharge same when necessary, requisite to the efficient carrying out of the provisions of this Act. Providing that the salaries of the commission and of all employees in said department and all the expenses of same, shall be paid out of the general revenues of this State, as is now provided by law. Providing that the members of the commission and the employees of said department shall be placed and held under a rule of civil service as nearly as possible. Providing that no commissioner or employee shall be interested in any insurance company except as an insured. Providing that if any section of this Act is declared unconstitutional it shall not invalidate the remainder thereof, and declaring an emergency."

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass, and be printed in the Journal.

HOLBROOK, Chariman.

Committee Room,

Austin, Texas, May 5, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Insurance and Banking, to whom was referred

S. B. No. 82, A bill to be entitled "An Act to create and provide for a Department of Banking for the State of Texas, separate from the Department of Insurance of this State, to provide for the appointment, term of office, official name, compensation and to prescribe the qualifications, powers and duties of the head of such department; providing for a seal of office; requiring of the Banking Commissioner of Texas an oath of office, and a bond for the faithful discharge of his duties; providing for the appointment of a Deputy Commissioner of Banking, defining his duties, fixing his compensation, requiring of him an oath of office and a bond for the faithful discharge of the duties of his office; providing clerical help for such department; providing for the appointment of State Bank Examiner, fixing their number, salaries and duties; providing for the number of examinations that shall be made by State examiners of State banks fixing the fees they shall be paid for such examinations and providing how payments for salaries and expenses of

examinations shall be made; providing for the appointment of a departmental examiner, prescribing his duties and fixing his compensation; providing for the appointment of a General Liquidating Agent, prescribing his duties and fixing his compensation; amending Chapter 10, General Laws of Texas passed by the First Called Session of the Twenty-ninth Legislature in 1905, being S. B. No. 6, and amending Section 38 of said Chapter 10, amending Chapter 205, General Laws of the Thirty-fifth Legislature, passed at the Regular Session in 1917 and amending Section 5 of said Chapter 205; amending Chapter 15 of the Second Called Session of the Thirty-first Legislature passed in 1909, being S. B. No. 4, amending Articles 518, 519, 521, 521a, and 522, Revised Civil Statutes of 1911 and amendments thereof, as amended by the Act of the Thirty-fifth Legislature at its Regular Session 1909, being Section 44 of Chapter 15 of S. B. No. 4, and Article 521a, Revised Civil Statutes of 1911 and amendments thereof, as amended by Chapter 205, Section 7, Acts of the Thirty-fifth Legislature at its Regular Session in 1917, repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be printed in the Journal.

HOLBROOK, Chairman.

Committee Room,  
Austin, Texas, May 4, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 15, A bill to be entitled "An Act to amend Articles 7407, 7409, 7414, 7415, and 7416 of the Revised Statutes of the State of Texas of 1911, relative to the taxation of the intangible assets of certain corporations, associations and individuals, and providing for the creation of a State Tax Board for the valuation of such intangible assets and for the distribution of said values for local taxation and for the assessment of said assets and the levy and collection of taxes thereon; and to provide for the repeal of all laws and parts of

laws laying taxes upon the gross incomes of corporations, associations and individuals, affected by the provisions thereof, so that as by this Act amended, said articles shall provide that other and additional individuals, corporations, companies and associations be inclined and made subject to the provisions thereof; providing that any such individual, company, corporation, or association engaged in any other business, upon which an occupation tax based on gross receipts is levied, shall not be relieved from the payment of such occupation tax by reason of the payment of taxes based on intangible values; fixing the salary of the Tax Commissioner; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

RIDGEWAY, Vice Chairman.

(Minority Report.)

Committee Room,  
Austin, Texas, May 4, 1923.  
Hon. T. W. Davidson, President of the Senate:

Sir: We, a minority of your Committee on State Affairs, to whom was referred H. B. No. 15, have had the same under consideration, beg leave to report the same back to the Senate with the recommendation that it do pass and that it be printed in the Journal and not otherwise.

WOOD,  
BAUGH,  
CLARK,  
WIRTZ,

Committee Room,  
Austin, Texas, May 5, 1923.  
Hon. T. W. Davidson, President of the Senate:

Sir: We, your Committee on State Institutions and Departments, to whom was referred

S. B. No. 91, A bill to be entitled "An Act creating The Texas Historical Board; defining its powers and duties; fixing the tenure of office of its members; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be printed in the Journal.

McMILLIN, Chairman.

Committee Room,

Austin, Texas, May 5, 1923.

Hon. T. W. Davidson, President of the Senate:

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 72, A bill to be entitled "An Act to relieve certain schools and school districts of the State by validating certain school districts, and where such districts have undertaken to provide for the issuance of school house bonds or the levying of special taxes for any lawful school purposes, validating such bond issues and taxes; and declaring an emergency,"

Have had the same under consideration, and I am instructed by the committee to report the same back to the Senate with the recommendation that it do pass but be not printed in bill form but be printed in the Journal.

WOOD, Chairman.

Committee Room,

Austin, Texas, May 5, 1923.

Hon. T. W. Davidson, President of the Senate:

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 87, A bill to be entitled "An Act to amend Sections 2 and 10 of House Bill No. 13 passed at the Regular Session of the Thirty-eighth Legislature, relating to the regulation, licensing and bonding of private employment agents so as to exempt from the operation of said bill those agents engaged in the business of securing employment for school teachers, and declaring an emergency."

Have had the same under consideration, and I am instructed by the committee to report same back to the Senate with the recommendation that it do pass and be not printed in bill form but be printed in the Journal.

WOOD, Chairman.

Committee Room,

Austin, Texas, May 5, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 74, A bill to be entitled

"An Act abolishing special funds in the State Treasury set aside therein for special and particular purposes and placing all moneys that are in such funds in the general revenue fund, so that all moneys shall be paid out on general warrants on an equal basis, payable as to order of payment according to serial numbers; prescribing how such warrants shall be numbered serially; providing that this Act shall not apply to special funds created and provided for in the State Constitution which the Legislature cannot place or make applicable to the general revenue fund as herein provided for other special funds, nor to special funds consisting of taxes remitted or donated to counties, cities or localities; enacting the necessary provisions so that the general revenue fund will get the benefit of any such special funds now on hand or to be collected; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and be printed in the Journal.

BAILEY, Chairman.

#### SIXTEENTH DAY.

Senate Chamber,

Austin, Texas,

Monday, May, 7, 1923.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Murphy.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Rogers.
Burkett.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Doyle.	Turner.
Lewis.	Watts.
Fairchild.	Witt.
Floyd.	Wood.
Holbrook.	Woods.
McMillin.	

Absent—Excused.

Clark.	Ridgeway.
Davis.	Wirtz.
Parr.	